

VZCZCXRO3741

OO RUEHFL RUEHKN RUEHKW RUEHMJ RUEHMR RUEHPA RUEHPB RUEHQU RUEHRN  
RUEHSL  
DE RUEHKO #1773/01 2152141  
ZNY CCCCC ZZH  
O 032141Z AUG 09  
FM AMEMBASSY TOKYO  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 5115  
INFO RUEHZJ/HUMAN RIGHTS COUNCIL COLLECTIVE PRIORITY  
RUCNSCO/UNESCO COLLECTIVE PRIORITY  
RUCNCRI/VIENNA CRIME COLLECTIVE PRIORITY  
RUEHFK/AMCONSUL FUKUOKA PRIORITY 5663  
RUEHNH/AMCONSUL NAHA PRIORITY 7993  
RUEHOK/AMCONSUL OSAKA KOBE PRIORITY 9472  
RUEHKS/AMCONSUL SAPPORO PRIORITY 6181  
RHMFISS/FBI WASHDC PRIORITY  
RUEAWJA/JUSTICE DEPT WASHDC PRIORITY  
RHEHAAA/WHITE HOUSE WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 TOKYO 001773

SIPDIS

DEPARTMENT FOR G/TIP: CHRIS CHAN-DOWNER, JANE SIGMON

E.O. 12958: DECL: 08/03/2019

TAGS: [KTIP](#) [PHUM](#) [JA](#)

SUBJECT: JAPANESE POLITICS MAKE CHILD PORN SIMPLE  
POSSESSION CRIMINALIZATION NO SIMPLE MATTER

TOKYO 00001773 001.2 OF 002

Classified By: CDA James P. Zumwalt per 1.4 (b/d)

11. (C) SUMMARY: Prior to the Diet,s dissolution, there were media reports that the ruling and opposition parties had reached an agreement to ban the simple possession of child pornography (CP). According to Embassy contacts, however, these reports were apparently an attempt by the ruling Liberal Democratic Party (LDP) to make the Democratic Party of Japan (DPJ) "look bad" on this issue in the run-up to the August 30 elections. In fact, the two parties only agreed on the need for further discussion on the issues separating them. The LDP tactic appears to have backfired, with the DPJ now more rigidly opposed to the LDP,s proposal. END SUMMARY.

12. (C) In separate meetings, DHS/ICE Attach and Embassy Political Officer met with National Police Agency (NPA) Juvenile Division Superintendent Naoharu Uchiyama to discuss ongoing Diet efforts to ban the simple possession of CP. (NOTE: Japan and Russia are the only two G8 countries that do not ban the simple possession of CP. END NOTE.) According to Uchiyama, the LDP leaked the news of an agreement on the criminalization of CP simple possession as a political ploy to make the DPJ "look bad" in the eyes of the public (because shortly thereafter, the DPJ filed a no-confidence motion, effectively ending Diet business and making it look like the DPJ was playing politics with the CP issue). Uchiyama, who attended a subsequent meeting between senior LDP and DPJ members of the Judiciary Committee, described the DPJ as "upset." The LDP representative was "forced on the defensive" with the DPJ "hardening their stance" against the CP amendment proposal. Uchiyama characterized the LDP tactic as "a total failure."

13. (C) Asked what he felt were the post-election prospects for the passage of an effective CP law, Uchiyama said that officially the NPA cannot take a position on pending legislation, but that privately he was not optimistic. "First of all," he said, "assuming the DPJ comes into power after the elections, deliberations about a CP amendment probably won't take place until April of next year." He explained that the DPJ will need time to prepare a defense of their current position -- which is not to ban the simple possession of CP -- from the criticisms of the other parties. He added that the vote margin obtained by the DPJ, as well as the number of New Komeito party members elected in the

upcoming election, would also be keys in determining how much pressure could be summoned to obtaining a compromise in the hardened DPJ position on not criminalizing CP simple possession. (NOTE: The New Komeito Party has been the party in the ruling LDP coalition that has spearheaded efforts to criminalize the simple possession of CP. END NOTE).

4.(C) Asked as a policeman involved in day-to-day efforts both to protect children from sexual predators and to prosecute child pornographers what he thought of the DPJ version of the CP amendment bill, Uchiyama shook his head and responded, "It's totally unreasonable, and ineffective as a law enforcement tool." First, the DPJ bill's definition of CP is "too vague." Second, because the internet log retention period for Japanese Internet providers is conventionally only three months, the DPJ requirement for penalizing "repeated acquisition" would allow someone to repeatedly acquire CP as long as they waited three months between acquisitions. Third, the DPJ amendment requirement for "acquisition onerously" ("Yusho no shutoku") will need to be interpreted by the Ministry of Justice (MOJ), but probably will mean "in return for money." This would mean that neither "hobbyists" nor people who provide recompense by means of "goods and services" will be liable for prosecution.

Asked if the DPJ Rep. Edano's concern about entrapment or involuntary downloading warranted language which does not in fact ban simple possession, Uchiyama said, "Absolutely not, in practice it is easy for the police to determine whether a person voluntarily is collecting CP by examining how they file and store those images."

15. (C) Uchiyama also shared observations of the nature of CP activities in Japan. "First of all," he said, "there is a lot of money involved. We have for example detected a group of 6,000 members who buy and trade CP. In most cases, the CP

TOKYO 00001773 002.2 OF 002

is sold in DVD form." He said he did not believe the Yakuza were heavily involved, rather, "the majority of those engaged in buying and trading CP in Japan are unemployed, living at home, and/or self-employed." Asked if there was any Japanese equivalent of the Butner study which showed hands-on child victimization by approximately 80% of the criminals arrested for CP violations, Uchiyama said it would probably be difficult to do such a study in Japan, but that he would "look at NPA internal records to see if a similar statistical case could be made."

16. (C) Asked for his advice on what steps the Embassy could take to keep this issue before the public and in front of political decision-makers, Uchiyama said, "Agnes Chan, the Japan UNICEF Spokesperson, has great influence on Japanese public opinion on this issue. The former U.S. Ambassador's Op-Ed pieces also made a very significant difference."

ZUMWALT